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**PATENT**

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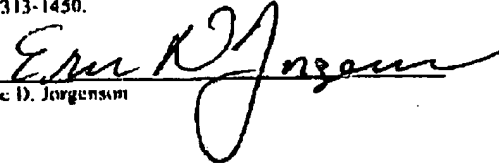
**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that this correspondence (along with any paper referred to as being attached or enclosed) is being faxed to 571-273-8300 on the date shown below to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Date:

5/2/08

Eric D. Jorgenson



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re patent application of:

Applicant(s): Brett J. Buchanan

Serial No: 10/752,898

Filing Date: January 6, 2004

Examiner: Steven N. Leff

Art Unit: 1761

Title: EDIBLE PET TOY

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**DECLARATION UNDER 37 CFR 1.132**

Brett J. Buchanan hereby declares that:

- 1) I am the inventor of EDIBLE PET TOY, as described in the above-identified U.S. patent application.
- 2) I am the owner of E.A.T.s - Edible Animal Treats of Monroe, Michigan, a company doing business since June, 2003, that provides edible products for animals, particularly house cats.

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3) The product described in the above-referenced patent application and the appended claims relates to an edible toy for an animal having a shell for oral interaction with the animal and one or more underlying layers formed of an edible material encased by the shell. One or more of the underlying layers include a layer binding material that provides consistency to retain form. The binding material releases layer materials upon penetration. The edible material includes catnip and the toy is edible in its entirety.

4) The product as described in the above-referenced patent application and commensurate with the appended claims is currently being sold under the trade name "Pawbreakers." This product is enjoying ever-increasing levels of commercial success, and has been well received in the pet products marketplace. Also, this product has met a long-felt need in the pet products marketplace, as evidenced by the testimonials that have been received from expert authorities in the pet field, as presented hereinbelow.

5) A testimonial was received from Franny Syufy, who has written about cats for About.com since 1997. Franny is a member of the Cat Writers' Association, an organization of prominent cat writers, photographers, artists, and broadcasters. She won awards from CWA for her writing in 2003, 2004, and 2005, including the prestigious Purina One Health Award for her article, *When to Call Your Veterinarian for Your Cat*. In 2005, Franny was honored with the Muse Medallion in CWA's online magazine competition. She is currently working on a book about cats that will be published in spring 2009. Franny writes:

Brett Buchanan has proven again the old adage that "necessity is the mother of invention" with his Pawbreakers concept. Like most cat lovers, he provided his three cats with plenty of catnip toys, but noticed that as his kitties aged, their interest waned. As he reasoned, "Would you like to smell your favorite food but never be able to eat it?" Next, he provided dry catnip in a bowl for his cats to snack on. As cats will do, they'd dive into the bowl and soon all the catnip would be scattered over the surrounding carpet, and out would come the vacuum, while the cats were still unsatisfied.

Pawbreakers were the result of countless hours of experimenting and testing on enthusiastic cats, until exactly the right shape and size was attained. My cats were no exception to the excitement with which cats greet their first

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introduction to Pawbreakers. Each of them got his own Pawbreaker, and it was hilarious fun watching them chase their toy-treats around the floor, then nuzzle and love them before licking them to death.

It wasn't long before all the Pawbreakers had disappeared - either completely consumed or lost under our sectional furniture. Put a couple of the toy-treats in a dry bathtub and watch your cat's antics as the ball rolls up and down the sides, or try Pawbreakers with the Peek-a-Prize toy box (see sidebar for review). My four test cats give Pawbreakers four paws up, and I give them a "5" for combining snacktime with playtime for cats.

6) Another testimonial was received from Dr. Elizabeth Devitt, a freelance writer specializing in animal health-care topics for *PET AGE* magazine. In an email, Dr. Devitt stated, "I love the whole idea of your product." The following is an excerpt from an article in the March, 2008 issue of *PET AGE* magazine, entitled *Re-Inventing Catnip*.

But let's not forget the ever-popular catnip, which is surfacing in a variety of novel treat forms.

For example, Pawbreakers from Edible Animal Treats (Monroe, Mich.) are toys as well as consumable treats. Voted most innovative product by *Cat Fancy* in 2005, Pawbreakers combine domestically grown catnip with a hypoallergenic binder into a long-lasting toy that cats actually can consume.

Brett Buchanan, owner of Edible Animal Treats, says he created Pawbreakers because he was tired of seeing his cats turn away from toys after a short time. "After almost two years, my cat was still hatting his Pawbreakers around," Buchanan said.

7) The following testimonial information about Pawbreakers was recently provided in answer to a series of questions by Pam Johnson-Bennett, CABC, of Cat Behavior Associates in Nashville, Tennessee. Pam Johnson-Bennett is one of America's most well-known and popular experts on cat behavior. In addition to running a private veterinarian-referral behavior service, Pam is the resident cat behavior expert at Yahoo.com. She also makes numerous national television appearances including Fox News Channel, CNN and National Geographic, as well as being a popular guest on many nationally syndicated radio programs. She is the author of seven titles, including *Cat vs. Cat*, *Think Like a Cat*, *Hiss & Tell*, and *Starting From Scratch*. Pam is the behavior spokesperson for Friskies. She is also

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on the Advisory Board for Tree House Animal Foundation. Pam is Vice President of the International Association of Animal Behavior Consultants and Founder/Chair of the cat division. Pam asked the following questions, and user testimonials are included with the replies are provided thereafter:

1) *What have veterinarians and/or behaviorists had to say specifically about the product?*

I'm a veterinarian with the goal of becoming board certified in feline behavior. I think this product has a great deal of potential as environmental enrichment for cats, but I noticed something else as well. One of my cats is currently undergoing chemo and radiation therapy for a vaccination sarcoma (cancer). His appetite has been diminished lately, but after each play session with the Pawbreaker, he goes over and munches on cat food for a while. I noticed a definite difference in his attitude and appetite. -- Dr. Florsheim in Texas

I wanted to let you know I received the sample Pawbreakers and literature. As with some of your own customer comments, my oldest cat got into my mail bag and started smelling and poking at the box until she got it out and knocked it onto the floor. Then the other cat joined in. They both enjoyed them. I've looked at your website and have copied the stores where they are available here in Massachusetts so I can refer my clients in my behavioral practice to them. You've created the perfect toy/treat. -- Dr. Bette Armstrong

2) *Have you had any feedback from customers or professionals who found the product helped with any behavior problems? -- not just positive comments that they liked the product, but specific information about the benefits for addressing behavior issues such as separation anxiety, depression, compulsive behavior, fear, etc.*

Being kitty people yourself you know that cats can be very finicky about everything. My one kitty I found in a parking lot and he had trouble adjusting to a life indoors with people who care. He wouldn't play with any toys I introduced to him and would shy away from any physical contact. However, the one toy he absolutely could not pass up is your catnip balls! He goes crazy! Now he plays and loves all kinds of attention. My other kitty also goes nuts over them and she is as finicky as they come! I always have to make sure they each have their own or a fight will surely break out. Crazy felines. -- T. Hartwick

I ordered some just a couple of weeks ago and had them shipped to my Moms for Christmas...I was at Mom's over the weekend and her cat and mine were

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squabbling, so I broke out the Pawbreakers and gave them each one. All was forgiven as both cats went nuts...will need some more as I plan on shipping a couple off to friends with their Christmas presents...and I sure don't want to run out here at home! - D. Sharples

My cats, Dari & Alex, have recently discovered the joys of Pawbreaker heaven..... Thank you SO MUCH for making this wonderfully entertaining product! These gentlemen, both 15 years old, have \*never\* expressed an interest in ANY particular toy, or in catnip at all, until I found Pawbreakers ..... - R. Wilken

#### Statistics:

The following statistics were compiled from hundreds of product testers in the USA and worldwide before introducing Pawbreakers to the public.

- 1) 9 out of 10 testers had positive reactions to the product
- 2) 8 out of 10 cats reacted immediately
- 3) 7 out of 10 cats played with this toy more than any other toy.

ever!

3) *What is the availability of the product overall? What are the future plans for availability? -- The reason I ask this is that I don't include product information in my books if the product has very limited availability.*

We hope to have Pawbreakers available to customers around the world....currently we are in almost every state in the USA and growing rapidly (many locations have not been updated on our website, sorry...that should happen soon). Customers can order anytime on the web at [www.pawbreakers.com](http://www.pawbreakers.com). shipping is included in the USA, Canada and Mexico....or, they can also find them at their local PETCO.

We also ship directly to customers around the world and we have retail locations in Canada, Japan, Taiwan, Malaysia, Hong Kong, Singapore, South Korea, Poland and other locations around the world.

Please also note that Pawbreakers are also a 100% USA made product!

Pam Johnson-Bennett replied with the following statement:

*I think the idea of your product is outstanding and if it performs as claimed on your website, it could be a valuable tool for behavior modification and I'd like more behaviorists and other professionals to know about it.*

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8) I believe that all statements made herein of my knowledge are true, and believe that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements and the like so made may jeopardize the validity of the application or any patent issuing therefrom.

DECLARANT:

Date: May 1, 2008

  
Brett J. Buchanan